



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,028	09/17/2003	Jasper James Tucker	1850-65160	7932
24197	7590	01/11/2005	EXAMINER	
KLARQUIST SPARKMAN, LLP 121 SW SALMON STREET SUITE 1600 PORTLAND, OR 97204			LERNER, AVRAHAM H	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,028

Applicant(s)

TUCKER, JASPER JAMES

Examiner

Avraham Lerner

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 12-14, 17, 18, 33, 34 and 37-72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 19-24, 27 and 35 is/are rejected.
- 7) ☒ Claim(s) 2-11, 15, 16, 25, 26, 28-32 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>0304</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restriction

1. Applicant's election with traverse of species A, represented by Fig. 5 in the reply filed on September 27, 2004 is acknowledged. The traversal is on the grounds that there are not claims to more than one patentably distinct species. This is not found persuasive because there are claims directed to only the species of Fig. 5A, and by applicant's election of the other species claims 12-14, 17-18, and 33-34 are withdrawn from consideration as being directed to a non-elected embodiment. Any claims depending from an allowable generic claim will be rejoined. In addition, election of group I, claims 1-37 is acknowledged, and claims 38-72 are also withdrawn.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Keehner (U.S. Patent No. 6,086,169).

Keehner discloses a drive track unit for a track-driven all-terrain vehicle, the track unit comprising: a track frame including a carrier beam (unnumbered, see Fig. 1) extending longitudinally of the frame; a rotatable track drive wheel assembly supported on said frame; plural guide wheel assemblies mounted on said carrier beam and in spaced apart relationship

Art Unit: 3611

along said beam; an endless drive track (12) trained about said drive wheel assembly and said guide wheel assemblies and being drivingly engaged by the drive wheel assembly and supported during ground engagement by said guide wheel assemblies; and each said guide wheel assembly including a wheel spindle (28) fixedly mounted to said carrier beam and extending laterally outwardly and inwardly beyond said beam, and a pair of guide wheel limits rotatably mounted on said spindle, including an outer guide wheel unit mounted outwardly of said beam and an inner guide wheel unit mounted inwardly of said beam, such that the outer and inner guide wheel units are axially spaced apart on opposite sides of said beam and define the width of the guide wheel assembly, the endless track having a track width extending at least the full width of said guide wheel assembly, and wherein the guide wheels are identical in size and construction.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Okumura et al. (U.S. Patent No. 5,954,148).

Okumura et al. discloses a drive track unit having all elements as claimed, including a track unit frame including a carrier beam extending longitudinally of the track unit; plural guide wheel assemblies (23, 24) rotatably mounted on said carrier beam; a drive wheel assembly (11) rotatably supported on said frame; an endless drive track (14) trained about said guide wheel assemblies and the drive wheel assembly; a drive axle (15) drivingly connected at one end portion to said drive wheel assembly for rotating the assembly and adapted for connection to a power source on a vehicle; said multiple guide wheel assemblies and said drive wheel assembly supporting said endless track in a generally triangular configuration (see Fig. 1) with the drive wheel assembly at the apex of said configuration and said guide wheel assemblies spaced apart along the base of the configuration so that the track defines a terrain-engaging lower track run;

Art Unit: 3611

said guide wheel assemblies each including multiple guide wheel units, with at least one guide wheel unit mounted on each of the opposite sides of said carrier beam; said endless track having a track width defined by inner and outer track reaches extending laterally inwardly and outwardly beyond the carrier beam and terminating at inner and outer track edges; each said guide wheel unit of a guide wheel assembly including a track support surface engaging and supporting said endless track such that the track support surfaces of a guide wheel assembly support substantially the full width of the drive track.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 27 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keehner in view of Dow et al. (U.S. Patent No. 5,533,587).

Keehner discloses a drive track unit comprising all elements as claimed, as recited above, except for that the track has a smooth outer ground-engaging surface and multiple spaced apart rows of drive lugs, and wherein the track width is greater than the full width of the guide wheel assembly.

Dow et al. discloses that it is known in the art to provide a vehicle track with a smooth outer ground-engaging surface and multiple spaced apart rows of drive lugs as claimed, and further wherein the track width is greater than the full width of the guide wheel assembly.

Art Unit: 3611

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Keehner with the track structure of Dow et al. in order to maximize the efficiency with which power is transferred to the tracks. Such a modification would have increased the number of mating points between the drive wheels and the track lugs, and therefore would have been obvious to one of ordinary skill.

Allowable Subject Matter

7. Claims 2-11, 15, 16, 25, 26, 28-32 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lemke et al. (U.S. Patent No. 6,497,460), Phely (U.S. Patent Application Publication No. 2002/0017403), Lykken (U.S. Patent No. 6,401,847), and Lykken et al. (U.S. Patent No. 6,318,484) disclose drive track assemblies having multiple idler wheels.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (703) 308-0423. The examiner can normally be reached on M-F (8:15-5:45) first Wednesday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AVRAHAM LERNER
PRIMARY EXAMINER

A. Lerner 1/6/05

January 6, 2005